

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice CM-440

For: State and County Offices

Revised FSA-211, Power of Attorney

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A

Background

FSA-211 provides the appointed attorney-in-fact the authority to act on behalf of the grantor for specific programs and specific transactions.

Each time new programs are legislated or amended, FSA consults with OGC to determine whether the legislation contains options and responsibilities for producers, tenants, and owners that are significantly different or of increased economic significance than previous legislation.

In 1996, revisions were made to FSA-211 as a result of program changes because of the Agricultural Market Transition Act (AMTA). Certain grantors were required to execute new FSA-211's.

The Farm Security and Rural Investment Act of 2002 (the Act) provides multiple new options and responsibilities that are significantly different from those in current programs and that have significant economic impacts. Accordingly, FSA-211 has been revised to ensure that farm owners can grant new and specific authorities. Important provisions of the Act include:

- a requirement that only owners may make elections about establishing base acres and updating yields for covered commodities
- new adjusted gross income provisions
- eliminating or suspending certain programs

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Disposal Date	Distribution
October 1, 2003	State Offices; State Offices relay to County Offices

1 Overview (Continued)

A

Background (Continued)

- creating new programs
- a requirement that only historic peanut producers shall:
 - designate a peanut base and yield to a farm
 - receive payment under 2002 peanut DCP.
- a requirement that only peanut quota owners may receive annual or lump sum payments.

The election of these options significantly impacts farm owners and all producers on a farm, including but not limited to the following:

- designation of peanut base acres
 - total amount of base acres on a farm
 - which crop base acres are establish for the farm
 - benefits available to all producers on the farm from FY 2002 through 2007
 - when and how often some program payments will be issued.
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B

Purpose

This notice:

- provides:
 - policy about existing FSA-211's on file
 - that the policy for non FSA power-of-attorneys on file is under review
 - instructions for completing and an example of revised FSA-211 (Exhibit 1)
 - a query to process a notification letter to grantors (Exhibit 2)
 - instructions for sending a notification letter to each grantor with certain FSA-211's on file.
 - obsoletes FSA-211-1.
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2 Existing FSA-211's and Other Power of Attorney Forms

A **FSA-211 With a** **Version Date** **Before** **April 18, 1996**

Before April 18, 1996, FSA-211's provided grantors the option to appoint an attorney-in-fact to act on their behalf for "All Programs." Because the decision making authorities did not significantly change under AMTA, FSA-211's granting authority for "All Programs" were determined acceptable for AMTA.

The Act provides programs, options, and responsibilities that are significantly different from those under AMTA and from other programs enacted before 1996. **Therefore, all FSA-211's with a version date before April 18, 1996, including those granted for "All Programs" are not valid for any program authorized under the Act.**

Important: Service Centers shall continue to honor existing valid FSA-211's with a version date before April 18, 1996, for actions related to programs enacted before the Act based on the programs and transactions selected on FSA-211.

See paragraph 3 for provisions for revised FSA-211.

B **April 18, 1996** **Version of** **FSA-211**

FSA-211 was revised on April 18, 1996, to enable grantors to appoint an attorney-in-fact to act on their behalf for specific programs. Most of these programs have terminated or will terminate September 30, 2002. Other programs have been significantly changed by the Act. **Therefore, all FSA-211's with a version date of April 18, 1996, are not valid for any program authorized under the Act unless the following exception applies.**

Exception: The Tobacco Program, Noninsured Crop Disaster Assistance Program, Conservation Reserve Program, and marketing assistance loans were not significantly changed by the Act. Therefore, FSA-211's with a version date of April 18, 1996, that appoint an attorney-in-fact for 1 or a combination of these programs shall remain valid under the Act unless such FSA-211 is revoked by the grantor.

If any other programs were selected in addition to any 1 or combination of these programs, FSA-211 is invalid for any program authorized under the Act.

Continued on the next page

2 Existing FSA-211's and Other Power of Attorney Forms (Continued)

B

**April 18, 1996
Version FSA-211
(Continued)**

Example: John Brown selected both "Tobacco Program" and "Peanut Program" on FSA-211. Mr. Brown's FSA-211 does **not** meet the requirement of the exception because "Peanut Program" was selected in addition to "Tobacco Program". Accordingly, it is not valid for any program authorized under the Act.

Important: Service Centers shall continue to honor existing valid FSA-211's with a version date of April 18, 1996, for actions related to programs enacted before the Act based on the programs and transactions selected on FSA-211.

See paragraph 3 for provisions for revised FSA-211.

C

**Existing
Non-FSA-211
Power of
Attorney Forms**

The status and acceptability of non-FSA-211's for programs authorized under the Act is under review. Forthcoming directives shall provide procedure or handling non-FSA-211's.

Procedure will be provided in forthcoming directives for cases when the grantor cannot complete FSA-211.

3 Revised FSA-211's and Other Power of Attorney Forms

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Revised FSA-211

FSA-211 has been revised to:

- include new FSA and CCC programs authorized under the Act
- provide options for all current and all future FSA or CCC programs
- remove terminated programs.

See Exhibit 1 for an example of the revised FSA-211.

Note: The revised FSA-211 may be obtained on the FFAS Employee Forms Online Intranet site. Access the site from the FSA Intranet at <http://intranet.fsa.usda.gov>.

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3 Revised FSA-211's and Other Power of Attorney Forms (Continued)

A

Revised FSA-211 (Continued)

FSA Service Centers shall destroy all old stock of FSA-211.

FSA shall accept only FSA-211 (7-25-02) for FSA and CCC program purposes. From the date of this notice, grantors must file FSA-211 (7-25-02) to appoint an attorney-in-fact to act on their behalf for FSA and CCC programs.

B

Handling Unique Cases

Forthcoming directives shall provide procedure for handling cases when the grantor cannot complete revised FSA-211 because of unique circumstances such as incompetence.

4 FSA-211-1's and Spouse Signatures

A

Spouses Signatures

Rules for spouses signatures are not changed because of the Act.

Spouses may sign on behalf of each other for FSA and CCC programs in which either has an interest unless written notification denying a spouse this authority has been provided to the FSA Service Center.

Note: See 1-CM, paragraph 707 for procedure about spouses signatures.

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Obsoleting FSA-211-1

FSA-211-1 is obsolete.

FSA Service Centers shall destroy all old stock of FSA-211-1.

5 Power of Attorney Query and Letter

A

Query and Letter A query has been prepared to generate a:

- letter to each grantor recorded in the automated power of attorney file according to 1-CM, Part 25

Note: See Exhibit 2 for an example of the notification letter generated by the query.

- a list of grantors, in alphabetical order by last name, for which letters were generated.

Note: On or about July 26, 2002, KC-ITSDO will broadcast the query software to FSA Service Centers. Service Centers shall ensure that the instructions in Information Bulletin 2421 are immediately followed.

B

Running the Query

The following table provides instructions for running the query.

Step	Action	
1	IF the user wants to print...	THEN...
	only a list of names of grantors and grantees in the power of attorney file for review	on Menu FAX250: <ul style="list-style-type: none"> • type POA1, QRPRADJ1 on the command line • PRESS "Enter".
	both of the following: <ul style="list-style-type: none"> • a list of names for review • notification letters to mail to grantors 	on Menu FAX250: <ul style="list-style-type: none"> • type POA2, QRPRADJ1 on the command line • PRESS "Enter".
2	Select the designation for the set of county files for the applicable county. Example: Enter "A" for the headquarter county. PRESS "Enter".	
3	Select the applicable printer by entering the printer ID in the "printer" field. Note: No other entries are required on this screen. PRESS "Enter".	

Continued on the next page

5 Power of Attorney Query and Letter (Continued)

C

Comparing and Sending Letters

The query will generate a list of grantors recorded in the automated power of attorney file.

FSA Service Center shall:

- compare the list of grantors generated by the query to the hard copy FSA-211's on file in the FSA Service Center to ensure that each grantor listed has a valid power of attorney on file
- mark grantors off the list that are covered by the exception according to subparagraph 2 B
- ensure that all grantors with FSA-211 on file that is invalid according to subparagraph 2 A or B receive a letter and a copy of FSA-211 (7-25-02)

Note: See Exhibit 2 for an example of the notification letter.

- **not** send a letter:
 - when grantor does not have a valid power of attorney form on file in the FSA Service Center

Note: A valid power of attorney form may not be on file in the FSA Service Center because:

- the grantor revoked the power of attorney, but the FSA Service Center failed to delete the record from the automated system
- the grantor is deceased.
- when FSA-211 on file meets the exception in subparagraph 2 B
- to grantors with non-FSA-211 on file.

If a letter is not generated by the query for a grantor with FSA-211 on file in the FSA Service Center that is invalid according to subparagraph 2 A or B, a manual letter must be prepared and mailed to the grantor.

6 Automated Power of Attorney File

A New Automated Power of Attorney File

The automated power of attorney file is being redesigned:

- to accommodate the new FSA-211
- distinguish FSA-211's and non-FSA-211's
- as a web-based application.

Until the new automated power of attorney file is completed, FSA Service Centers shall maintain a file of properly executed power of attorney forms. The valid hard copy power of attorney forms shall be used to ensure that proper signature authority is on file until the new automated file is completed.

B Lockout of Automated Power of Attorney File

A future software release will lock out the automated power of attorney file. The automated power of attorney file will be locked out to ensure that FSA-211's (7-25-02), are not entered in the automated system until the new automated power of attorney file is developed.

7 Action

A FSA Service Center Action

FSA Service Centers shall:

- immediately run the power of attorney query according to subparagraph 5 B
 - compare the list of grantors generated by the query to the hard copy power of attorney forms on file in FSA Service Center according to subparagraph 5 C
 - send the notification letter generated by the query to applicable grantors according to subparagraph 5 C
 - destroy all old stock of FSA-211 and FSA-211-1
 - not process any FSA-211-1 received after July 26, 2002
 - not process any FSA-211 with a version date other than July 25, 2002
 - in the next newsletter, inform producers of the availability of the new FSA-211 through the FSA Service Center and electronically through the Internet.
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Completing Revised FSA-211

A

Instructions for Completing Revised FSA-211 Complete revised FSA-211 according to the following table.

Item	Instructions
1	Enter the name of the person to whom power of attorney is being granted (attorney-in-fact).
2	Enter the address of the person to whom power of attorney is being granted (attorney-in-fact).
3	Enter the appropriate county for the person to whom power of attorney is being granted (attorney-in-fact).
4	Enter the appropriate State for the person to whom power of attorney is being granted (attorney-in-fact).
5	<p>If an:</p> <ul style="list-style-type: none"> individual is granting authority to act on his or her behalf, enter the name of the person granting the power of attorney authority (Grantor) entity, such as corporation, partnership, trust, joint venture, or other similar entity is granting authority to act for the entity and bind all members, enter the name of the entity granting the power of attorney authority (Grantor).
A	<p>Check the applicable CCC and FSA programs for which the appointed attorney-in-fact will have the authority to act on behalf of the grantor.</p> <p>Enter the specific CCC and FSA programs in item A 11, "Other", to have the appointed attorney-in-fact act on specific CCC and FSA programs not listed.</p>
B	<p>Check the applicable CCC and FSA transactions for which the appointed attorney-in-fact will have the authority to act on behalf of the grantor.</p> <p>Enter the specific CCC and FSA transactions, farm numbers, and/or counties as applicable, in item B 7, "Other", to have the appointed attorney-in-fact act for specific transactions not listed, specific farms only, or in specific counties only.</p>
C	<p>Enter the specific FCIC crops for which the appointed attorney-in-fact will have the authority to act on behalf of the grantor.</p> <p>Enter "ALL" to have the appointed attorney-in-fact act for all FCIC crops.</p>
D	<p>Check the applicable FCIC transactions for which the appointed attorney-in-fact will have the authority to act on behalf of the grantor.</p> <p>Enter the specific transactions in item D 6, "Other", to have the appointed attorney-in-fact act on specific FCIC transactions not listed.</p>

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Completing Revised FSA-211 (Continued)

A Instructions for Completing Revised FSA-211 (Continued)

Item	Instructions
6 A through C	<p>If the grantor is an individual, the person granting the authority must sign, date, and enter his or her Social Security Number in items 6 A, B, and C respectively. See item 7 if the grantor is an entity.</p> <p>Important: Signatures must be witnessed by an FSA employee who verifies the identity of the grantor according to item 8. Alternatively, FSA-211 may be notarized by a valid Notary Public according to item 9.</p>
7 A through D	<p>If the grantor is an entity such as a corporation, partnership, trust, or joint venture, the person granting the authority must sign, enter their official title, date, and enter the identification number of the entity in items 7 A through D respectively. See item 6 for individuals.</p> <p>Important: Signatures must be witnessed by an FSA employee who verifies the identity of the grantor according to item 8 or notarized. Alternatively, FSA-211 may be notarized by a valid Notary Public according to item 9.</p>
8 A through C	<p>At least 1 FSA employee must witness the signature in item 6 or 7, as applicable. The FSA employee must verify the grantor's identity by either personal knowledge or by reviewing the grantor's government issued picture identification, such as a valid drivers licence. The employee must sign, date, and enter his or her official position in items 8 A, B, and C respectively.</p> <p>Notarized FSA-211's may be accepted instead of forms witnessed by an FSA employee. See item 9.</p>
9 A through C	<p>If the signature in item 6 or 7, as applicable, is not witnessed by at least 1 FSA employee, the form must be notarized by a valid Notary Public in item 9. The Notary Public's signature, seal, State and county of commission, certification, date of commission, and expiration are required.</p>
10 A through E	<p>Enter the county and State of the FSA County Office that FSA-211 is served in items 10 A and B respectively.</p> <p>Enter the day, month, and year the properly completed FSA-211 was served to the FSA Service Center in items 10 C, D, and E respectively.</p> <p>Note: FSA-211 is effective only when all the following are met:</p> <ul style="list-style-type: none"> • all required items are completed • a valid signature is obtained, and witnessed or notarized • FSA-211 is served to FSA County Office.

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Completing Revised FSA-211 (Continued)

B
Example of
Revised FSA-211

This form is available electronically.		Form Approved - OMB No. 0560-0190	
FSA-211 (07-25-02)		U. S. DEPARTMENT OF AGRICULTURE Farm Service Agency - Commodity Credit Corporation - Federal Crop Insurance Corporation	
POWER OF ATTORNEY			
THE UNDERSIGNED does hereby appoint (1) _____, of (2) _____ (3) _____ County, State of (4) _____, the attorney-in-fact to act for (5) _____ in connection with Farm Service Agency and Commodity Credit Corporation program number(s) checked below. Checking any of the FSA or CCC programs does not have any impact as to the FCIC transactions checked below:			
A. FSA and CCC PROGRAMS <i>(Check applicable program numbers)</i>		B. Transactions for FSA and CCC Programs <i>(Check applicable program numbers)</i>	
<input type="checkbox"/> 1. All current programs. <input type="checkbox"/> 2. All current and all future programs. <input type="checkbox"/> 3. Direct and Counter-Cyclical Program except 2002 peanuts covered by Item A1. <input type="checkbox"/> 4. 2002 Direct and Counter-Cyclical Peanut Program. <input type="checkbox"/> 5. Peanut Quota Buy-Out Program.	<input type="checkbox"/> 6. Noninsured Crop Disaster Assistance Program. <input type="checkbox"/> 7. Tobacco programs. <input type="checkbox"/> 8. Marketing Assistance Loans and Loan Deficiency Payments. <input type="checkbox"/> 9. Conservation programs. <input type="checkbox"/> 10. Milk Income Loss Contract Program. <input type="checkbox"/> 11. Other (Specify) _____	<input type="checkbox"/> 1. All actions. <input type="checkbox"/> 2. Signing applications, agreements, and contracts. <input type="checkbox"/> 3. Election of bases and yields except peanut designation covered by Item B4. <input type="checkbox"/> 4. Designation of peanut historical base and yield to a farm.	<input type="checkbox"/> 5. Making reports. <input type="checkbox"/> 6. Conducting all marketing assistance loan and LDP transactions. <input type="checkbox"/> 7. Other (Specify) _____
This form may also be used to grant authority to an attorney-in-fact to act on the grantor's behalf with respect to certain FCIC programs and crops. Checking any of the FCIC transactions does not have any impact as to the FSA or CCC transactions checked above:			
C. FCIC CROPS <i>(Enter "All" or specify each crop and year)</i>		D. TRANSACTION NUMBERS USED BY FCIC <i>(Check applicable numbers)</i>	
1. _____ 2. _____ 3. _____ 4. _____	<input type="checkbox"/> 1. All actions. <input type="checkbox"/> 2. Making application for insurance. <input type="checkbox"/> 3. Reporting crop acreage and notice of damage reports. <input type="checkbox"/> 4. Making claim for indemnity. <input type="checkbox"/> 5. Making contract changes. <input type="checkbox"/> 6. Other (Specify) _____		
This Power of Attorney is valid in all counties in the United States unless otherwise noted. This power of attorney shall remain in full force and effect until (1) written notice of its revocation has been duly served upon FSA; (2) death of the undersigned grantor; or (3) incompetence or incapacitation of the undersigned grantor. The undersigned grantor shall provide separate written notice of revocation to the applicable crop insurance agent. This power of attorney shall not be effective until properly executed and served to a FSA Service Center.			
AUTHORIZED SIGNATURES:			
6A. Signature(s) of Grantor(s) (Individual)		B. Date (MM-DD-YYYY)	C. Social Security Number
7A. Signature of Grantor (Partnership, Corporation, Trust, etc.)		B. Title	C. Date (MM-DD-YYYY)
8A. Witness Signature (FSA Employee Only)	B. Date (MM-DD-YYYY)	C. Official Position	
9. Notary Public (this form shall be acknowledged by a Notary Public unless witnessed by a FSA employee or a corporate seal of grantor is affixed).			
Signature (a) _____		State of (b) _____ County of (c) _____	
10. This power of attorney was served to (a) _____		County FSA Office, (b) State of _____ and	
became effective this (c) _____ day of (d) _____		(e) _____	
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended: The authority for requesting the following information is the Food Security and Rural Investment Act of 2002 (Pub. L. 107-171) and 7 CFR Part 715. The information will be used to legally document your opinion to appointing an attorney-in-fact, identify the person and authorities granted to the appointee. Furnishing the requested information is voluntary; however, failure to furnish the requested information will result in the individual or entity not being able to act as your attorney-in-fact. The information may be provided to other agencies, FSA, Department of Justice or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 226, 287, 371, 651, 1001, 15 USC 744m, and 31 USC 3729, may be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0190. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibitions apply to all programs.) Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 725-2000 (voice and TDD). To file a complaint of discrimination, write USDA, Director Office of Civil Rights, Room 326-W, Whittier Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 725-3984 (voice or TDD). USDA is an equal opportunity provider and employer.			

Example of Notification Letter

Dear producer:

The recently passed Farm Security and Rural Investment Act of 2002 (the Act) is effective for 2002 through 2007. The Agricultural Market Transition Act expires September 30, 2002. Under the Act, farms may be enrolled in annual contracts to participate in the Direct and Counter-Cyclical Program.

Under the Act, owners will be provided an opportunity to elect from multiple options to establish base acres and yields on each farm. The election of base acres and yields for a farm will have a significant impact on the benefits available to all producers with an interest in the farm. In addition, significant decisions will be made by peanut quota holders and historic peanut producers. The significance of these options and decisions cannot be overstated. Additional information about programs authorized under the Act will be provided in the near future.

Only farm owners may make base and yield elections, unless such authority is granted to a designee using a power of attorney. We currently have a power of attorney form on file that authorizes _____ to act on your behalf for programs enacted prior to the Act. However, this power of attorney is not applicable to new programs or transactions related to the Act.

Your existing power of attorney form on file with FSA is invalid for programs authorized under the Act.

Enclosed is a new FSA-211, Power of Attorney, form. If you wish to retain an agent to act on your behalf for the programs and transactions authorized under the Act and most other FSA administered programs, please complete and return the enclosed form. The FSA-211, Power of Attorney, form is also available on-line at <http://forms.sc.egov.usda.gov>. We must have a properly executed FSA-211 on file in the FSA Service Center to authorize someone to act as an agent on your behalf.

If you have any questions or you need assistance completing the new FSA-211, please contact the FSA Service Center at the address listed above.

Sincerely,

County Executive Director